

**New Hampshire Racing & Charitable Gaming Commission  
Commission Meeting  
Concord Office  
December 9, 2009  
09-15**

Present: Timothy J. Connors, Chairman  
Warren W. Leary Jr., Secretary  
Michael J. Gatsas, Member  
Lynn M. Presby, Member  
Bernard A. Streeter, Member  
Paul M. Kelley, Director  
Sudhir K. Naik, Deputy Director  
Rose Wiant, Legal Counsel, AG's Office  
Steve Johnston, Supervisor Gaming Operations  
Billie Jean Arseneault, Gaming/Licensing Supervisor  
William Dewhurst, Sr. Auditor  
Linda Glaser, Auditor  
Shawn Graham, Auditor  
Linda Darrow, Administrative Secretary

In Attendance: Rick Newman, Dan Callaghan, Averill Cate, Ed Callahan, Marlin Torguson, Jasper Chirco and others.

The Chairman called the meeting to order at 10:06 a.m. He called for the scheduled hearing to begin.

**Mr. Jasper Chirco Hearing**

The Chairman opened the appeal hearing requested by Mr. Jasper Chirco relative to being denied a Secondary Game Operator License. The Chairman swore in those who were to testify. Testimony was received from:

Mr. Jasper Chirco

The Chairman asked if anyone else had any testimony or evidence to offer. There was none. The Chairman closed the hearing at 10:12 a.m.

**Decision & Order**  
**Appeal of Jasper Chirco for Denial of**  
**Secondary Game Operator License**

**Findings of Fact**

1. On October 16, 2009, the Commission received, from Jasper Chirco, a Secondary Game Operator Application for the year 2010.
2. Jasper Chirco, on his license application, marked "yes" under Item A: "Have you ever been convicted of a felony or Class A misdemeanor within the previous 10 years which has not been annulled by a court, or a Class B misdemeanor within the past 5 years which has not been annulled by a court....".
3. On October 14, 2009 the NHSP Criminal Record Unit notified the Commission that no record was found for Jasper Chirco.
4. Citing the positive response by Jasper Chirco to Item A, the Commission requested NHSP Criminal Record Unit to research the record of Jasper Chirco.

5. On, October 21, 2009, the NH Racing and Charitable Gaming Commission received a second criminal background check for Jasper Chirco from the NH State Police.
6. The NH State Police record of conviction indicated that Jasper Chirco received a Class B Misdemeanor on September 9, 2009 on the charge of Possession of Drugs 318-B: 2.
7. By letter dated October 26, 2009, the Commission notified Jasper Chirco that his secondary game operator license application had been denied based on the record received by the Commission from the NH State Police.
8. The Commission received an appeal form from Jasper Chirco on November 9, 2009.
9. On November 10, 2009, a hearing notice dated November 10, 2009 was sent regular and certified mail to Jasper Chirco notifying him that an appeal hearing would be held on December 9, 2009 regarding the denial of his Secondary Game Operator license.
10. On December 9, 2009, the Commission held an appeal hearing regarding the denial of Jasper Chirco's application for a secondary game operator license.
11. Jasper Chirco provided testimony at the hearing stating that:
  - a. The June 6, 2009 charge of possession of drugs (marijuana) was a result of a passenger tossing a small amount of marijuana into the back seat of the vehicle he was driving.
  - b. Jasper Chirco did not know his passenger, a co-worker, was in possession of marijuana until seconds before being pulled over by a Police Officer.
  - c. Jasper Chirco acknowledged that as the driver of the vehicle, he is responsible for the vehicle's contents.
  - d. Jasper Chirco has had a Secondary Game Operator's license since 2007.
  - e. Jasper Chirco is a full-time student.
  - f. Jasper Chirco has no other means of support.
  - g. Jasper Chirco has no other offences listed on his record.

## **Conclusions of Law**

1. Pursuant to RSA 287-D:2-b, VI, a game operator is prohibited from operating a games of chance if that person has been convicted of a felony or class A misdemeanor within the past 10 years or a class B misdemeanor within the past 5 years and that conviction has not been annulled by a court. This prohibition is subject to the provisions in RSA 287-D:8, II.
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. The Commission determined that this was the only conviction that was reported by the NH State Police for Jasper Chirco and that it occurred in June 2009.
4. The Commission determined that Jasper Chirco acknowledged the Class B misdemeanor prior to the Commission receiving the report from the NH State Police.
5. Based on testimony given and information received, the Commission concludes, pursuant to RSA 287-D: 8, II, that Jasper Chirco is fit to be associated with games of chance; therefore he is conditionally eligible for a secondary game operator license.

## **Order**

The Commission orders that the denial of Jasper Chirco's secondary game operator license be reversed, providing he commits no other offences against the law for a period of one year.

So Ordered.

With the hearing closed, the Chairman moved forward to the other items on the agenda. Commissioner Urban was unable to attend due to the weather.

On a motion by Commissioner Streeter, seconded by Commissioner Presby and unanimously voted to approve and place on file the Commission minutes dated October 27, 2009.

The Racing & Charitable Gaming statistics for the fiscal period ending November 29, 2009 were reviewed. Director Kelley was asked to remove Hinsdale and Rochester Fair from the statistics since they are no longer in operation.

The Games of Chance warning letters spreadsheets were reviewed. Deputy Director Naik stated that the organizations which had received warnings all responded.

The Games of Chance State Revenue spreadsheets were reviewed. Director Kelley stated he visited Granite State Poker's new gaming location in Plaistow, relocated from Rockingham Park in Salem.

On a motion by Commissioner Leary, seconded by Commissioner Presby and unanimously voted to move forward with the request for Double Super Hog Lucky 7 tickets submitted by Ellas Distributors and NH Government Solutions Group. The Commission will work on developing rules to address this request. The Commission will take up discussion on the request within the next 60-90 days.

The NH Gaming Study Commission Progress Report was reviewed. Under Regulatory Factors, the report stated "NH is already thinly staffed. . ." Director Kelley was asked to draft a response to counter this statement. It was pointed out that the auditors on staff are well able to manage the state regulations pertaining to gaming. Attorney Wiant was asked if the AG's office has changed its position on gaming issues now that the office is headed by a new attorney general. Attorney Wiant will get back to the Commission with her findings.

Correspondence was reviewed. The Commission asked for clarification on three points in Mr. Dumont's letter of explanation on the anabolic steroid rulings. Director Kelley will contact Mr. Dumont and provide clarification back to the Commission on: (1) why the track was late in notifying Mr. Dubois of the positive test results; (2) specific drug amounts of each positive test; and (3) enforcement and use of the Minority Report.

Under Old Business:

- ❖ The track license applications are pending and were to be discussed during the non-public session.

Under New Business:

- ❖ Director Kelley provided copies of a letter from United Tote dated 11/9/09 announcing a change of officers.
- ❖ Director Kelley provided copies of a letter from the Lodge at Belmont dated 11/10/09 announcing Mr. Kory Kamke's appointment as Assistant General Manager.

Discussion turned to the 10% gaming tax and the process currently in place for its collection. Deputy Director Naik stated that the Department of Revenue (DRA) has taken the lead on collecting the tax and has given no role to RCGC other than possibly collecting social security numbers from those awarded prizes. Concern was expressed that no written guidelines/rules are currently in place for this tax collection. Deputy Director Naik is to follow up with DRA and report his findings back to the Commission.

Commissioner Presby thanked staff for researching the football pool squares game request submitted by the Lodge at Belmont, and conditionally approved by the Commission at a previous meeting. Findings by staff revealed federal law prohibits this type of gaming.

Commissioner Gatsas requested that all items that are tabled during Commission meetings be placed back on the agenda for the next meeting until items are resolved.

At 10:40 a.m., on a motion by Commissioner Streeter, seconded by Commissioner Presby and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go into non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes

At 2:05 p.m., on a motion by Commissioner Presby, seconded by Commissioner Streeter and by a unanimous roll call vote, the Commission voted to come out of the non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes

On a motion by Commissioner Presby, seconded by Commissioner Streeter and unanimously voted to approve the licenses for all three tracks for the year 2010.

At 2:08 p.m., on a motion by Commissioner Streeter, seconded by Commissioner Leary and by a unanimous roll call vote the Commission voted to adjourn the regular meeting, and go back into non-public session.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes

At 2:10 p.m., on a motion by Commissioner Streeter, seconded by Commissioner Leary and by a unanimous roll call vote the Commission voted to come out of the non-public session and to permanently seal the non-public minutes.

Connors	-	Yes
Leary	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Streeter	-	Yes

The next Commission meeting is scheduled for Wednesday, January 13, 2010 in Concord beginning at 11:00 a.m.

The Chairman closed the public meeting at 2:15 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.  
Secretary